

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

ANDREW M. MILLER, <div style="text-align: center;">Plaintiff,</div> <div style="text-align: center;">vs.</div> KELLOGG USA, INC., <div style="text-align: center;">Defendant.</div>))))))))))	8:04CV500 ORDER
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This matter is before the court on the motion of Dana E. Washington to withdraw as counsel for the defendant Kellogg USA, Inc. (Filing No. 24). The court notes no substitute counsel has appeared in this matter for the defendant.

The Eighth Circuit has held that “the law does not allow a corporation to proceed *pro se*.” ***Ackra Direct Mktg. Corp. v. Fingerhut Corp.***, 86 F.3d 852, 857 (8th Cir. 1996); **see also *United States v. Van Stelton***, 988 F.2d 70, 70 (8th Cir. 1993) (noting that a corporation may not appear *pro se*); ***Carr Enters., Inc. v. United States***, 698 F.2d 952, 953 (8th Cir. 1983) (noting “[i]t is settled law that a corporation may be represented only by licensed counsel”). In fact, according to the Eighth Circuit, a corporation is technically in default as of the date its counsel is permitted to withdraw from the case without substitute counsel appearing. ***Ackra Direct***, 86 F.3d at 857. Under the circumstances, the court concludes defense counsel shall not be given leave to withdraw as attorney for the defendant until substitute counsel has entered an appearance or other order of the court. The defendant shall have an opportunity to obtain substitute counsel. Upon consideration,

IT IS ORDERED:

1. Dana E. Washington’s motion to withdraw as counsel for the defendant (Filing No. 24) is held in abeyance until July 15, 2005.
2. The defendant shall have substitute counsel enter an appearance on its behalf **on or before July 15, 2005**. If the defendant fails to have substitute counsel enter an appearance by that date and Ms. Washington is allowed to withdraw the court may

strike the answer of the defendant and enter default, pursuant to Fed. R. Civ. P. 37(b)(2)(C).

3. Dana E. Washington shall serve a copy of her motion and this order on the defendant and file a certificate of service therefore.

Dated this 21st day of June, 2005.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge